



Chapter 3 –Rezoning and Conditional Use Permits

Zoning Code

The *Unified Zoning Code* (UZC) contains regulations regarding the use of land located in the City of Wichita or Sedgwick County. Every property within the City and County has been zoned. The zoning on any given piece of property is indicated on the official zoning map.

The UZC describes land use development rights and restrictions that are based upon the applicable zoning district. Each zoning district within the zoning code specifies uses that are permitted “by-right, uses that require a conditional use (CU) permit” (these uses are not permitted by-right), when overlay districts are necessary, required setbacks, maximum building heights, minimum parking requirements, supplemental use and development standards and review procedures for each type of application.

Uses permitted by-right do not require additional zoning hearings prior to the commencement of development, but may require the completion of non-zoning requirements, such as platting, building permits, drainage plans, sign permits, landscape reviews, architectural compatibility, protective overlays (PO) or guarantees for improvements, before a building permit can be issued. Thus, the UZC represents a set of land use development rights and restrictions for any particular piece of property located within the City of Wichita or unincorporated Sedgwick County. Copies of the UZC can be obtained

or reviewed at the Metropolitan Area Planning Department (MAPD) or at either the City’s or County’s Code Enforcement Departments. The code is also available for review on the City’s website, www.wichita.gov on the OCI web page. Uses permitted by “conditional use” permit are not uses allowed “by-right”, and require public hearing and approval prior to the commencement of development. Those uses permitted only after approval of a “CU” permit are subject to the requirements contained in the underlying zoning designation, but are also subject to specific reasonable conditions of approval necessary to make the use compatible with surrounding properties. For example, a car wash has specific conditional use standards dealing with distance from residential zoning, building setbacks, fencing, paving, lighting and access control that must be met before a car wash can be located in close proximity to residential zoning.

Zoning Map

The official zoning map indicates the zoning classification for any given property. The map should be consulted if there is any question as to the zoning on any particular piece of property. The zoning map is maintained by the MAPD; however both City and County Code Enforcement Departments also have copies of the map. The zoning map is also available on-line via the City’s and County’s web sites. The City’s map can be found at <http://wichita.gov/CityOffices/Planning>

Public Reviews

The purpose of requiring zoning reviews and public hearings is to make sure the proposed development (uses, density, bulk) are appropriate at the proposed location and the use is compatible with existing or planned developments. These decisions are made only after listening to staff recommendations and any comments surrounding property owners and members of the general public may have regarding the proposed development and its impact on the community.

One of the formal opportunities for public comment is at a District Advisory Board (DAB) meeting. Some applications may be referred to the District Advisory Board, a citizen review board chaired by the City Council member representing the district in which the application is located. Referral is based upon staff's experience with similar requests. Generally, requests that significantly increase the intensity of development over what is currently in place are referred to the appropriate DAB.

The Metropolitan Area Planning Commission (MAPC) is responsible for holding the official public hearings regarding zone change applications. The MAPC is a joint City-County planning board responsible for making recommendations to the governing bodies regarding land use within the City and County. All rezoning and conditional use permit applications are reviewed by the MAPC. All rezoning cases are forwarded to the governing body for final approval or denial. The MAPC can be the final decision for conditional use permits depending if there are protests or appeals of an MAPC decision. If there are no protests or appeals of MAPC's decisions regarding a conditional use, the action of the planning commission is final. If there are protests, the case proceeds to the governing body for final action.

Application Process

MAPD staff provides support services to the MAPC by working with applicants to see that applications are properly completed, insures required public notices are published, makes recommendations and presentations regarding each application, processes protest petitions and maintains required files and records of the Commission's actions. MAPD also assists applicants by providing information regarding review procedures, disposition of similar requests and recommendations contained in the community's adopted plans and policies.

Step 1 - Informal Counter Meeting

It is recommended applicants meet informally with an individual MAPD Current Plans staff member prior to submitting a rezoning or conditional use permit application. The purpose of the informal counter meeting is to establish the basic facts regarding the property and the proposed request and insure the applicant is aware of the correct procedures to move the project forward (e.g. existing zoning, proposed uses, proposed zoning, confirm the proposed site meets minimum property standards and initially identify any issues associated with the proposal). At the informal "counter meeting," staff will provide the applicant with appropriate applications. It is not necessary to have detailed plans at the "counter meeting." However, the more information the applicant has, the better able staff will be to provide better advice. Depending upon the outcome of the counter meeting, the applicant may be asked to attend a Development Review Committee (DRC) meeting.

Step 2 - Development Review Committee

The purpose of the Development Review Committee (DRC) is to provide citizens with advice and comment regarding zoning or platting projects. Reviews by the DRC are free, and are provided by city and county departments involved in the development process as a service to applicants. The concept behind the review is the applicant will be better able to evaluate and plan his/her project if he/she has early knowledge of code requirements. The Development Review Committee generally meets every Friday afternoon beginning at 1:30 p.m., in the Wichita-Sedgwick County Metropolitan Area Planning Department conference room located on 10th floor, City Hall, 455 N. Main Street, Wichita, Kansas 67202 (southwest corner of Central Avenue and Main Street). To avoid waiting, applicants are encouraged to call the Planning Department at 316-268-4421 to schedule a meeting time. Appointments are made on thirty-

Process Improvement Points

Talk with staff early in the planning process. The City of Wichita handles dozens of rezoning and conditional use cases each year and staff can be a great resource for information.

minute intervals, however staff will take as long as is necessary to provide comments.

Citizens contemplating a project are encouraged to call or stop in at the Planning Department to discuss their projects with a planner. If it is felt that the project could benefit from a DRC review, an appointment can be scheduled. Not all projects need to go to the Development Review Committee, as staff may be able to direct the applicant without additional review. However, if the project requires additional comment or guidance, staff will recommend the project for further review. Reviews are not mandatory and no application will be rejected because it has not been to Development Review. The review is strictly voluntary, and is provided as a means to minimize potential foreseeable problems or delays.

If you have questions concerning the Development Review Committee or want to make an appointment, please contact the Planning Department at 316-268-4421.

Step 3 - Filing the Application

Applications for rezoning or conditional use permit can be obtained and filed with the Metropolitan Area Planning Department located in City Hall, 455 Main Street, Wichita, Kansas, on any business day between 8:00 a.m. and 5:00 p.m. Application forms are also available on the City's website. Applications can also be faxed to applicants by calling the Planning Department. A calendar containing filing deadlines and hearing dates for MAPC is available from the MAPD office or the City website. Applicants are encouraged to obtain a copy of the MAPC calendar, and utilize the dates and deadlines as schedules are developed and development milestones are established. There are individual application forms for each application type. Each application type has its own specific instructions and fee schedule.

In general, a completed application consists of a signed (by the owner of the property or legally designated agent) application form, a certified ownership list and filing fee. The application form is mainly self-explanatory requiring the legal description of the property under consideration, an explanation of what is being requested and the reason why. A title or abstract company must create the state required certified ownership list. The ownership list must include the names and addresses of all

Process Improvement Points

Staff's goal is to treat each application reviewed professionally, fairly, and promptly.

It is important to check with the City's Water and Sewer Department to determine the availability of water and sewer services when starting a new development project. Water and sewer procedures will be discussed in Chapters 5 and 6.

ownership list is a sliding scale based upon the area of the application area. The minimum distance is 200 feet; the maximum property owners within a specified distance surrounding the perimeter of the application area. The distance required for the distance is 1,000 feet. See individual application instructions for specific acreage to distance requirements. Applicant generated ownership lists will not be accepted. In addition to the application form, the ownership list and the filing fee, conditional use applications also require a site plan. There is an instruction sheet available outlining minimum requirements for site plans. Planned unit developments and community unit plans require specialized development plans, and those requirements are addressed within their individual instruction package.

The applicant is required to post a notification sign on the application area 13 days prior to the MAPC hearing. Applicants purchase a sign in addition to the application fees or they can provide their own sign. One sign is required for each street frontage. Sign posting instructions are available at the time of application.

Application fees are described in each instruction sheet. Application fees are non-refundable except if an applicant should withdraw an application that requires governing body approval within two weeks after the MAPC hearing, the applicant shall be refunded 15% of the application fee.

Step 4 – Staff Report

Once a completed application is on file, Planning staff will develop a written staff report that contains staff's recommendation to the MAPC and governing body. Staff will make every effort to work with the applicant to see the report accurately reflects the applicant's intentions. When possible, staff will work with the applicant to develop compromise solutions if there are differences of opinions between staff and the applicant over any of staff's recommendations. The applicant can assist processing of the case by providing complete information regarding the reason for the application. Generally the applicant will be provided a copy of the staff report six days prior to the MAPC hearing.

Process Improvement Points

Contact the Sedgwick County Clerk's Office/Real Estate Records at 316-660-9200 or contract with a title company to obtain names and addresses of property owners within the 200 feet notification area within the City or the 1000 feet notification for property located outside City limits.

Pay attention to detail to avoid application delay.

City Council and the Board of County Commissioners adopt reasonable regulations and policies to guide the development of the community. Staff's job is to review development requests to determine whether they meet these requirements.

Step 5 - District Advisory Board Review

Applicants, whose application has been selected for DAB review, will be advised of the date of the DAB meeting within the first week after filing. Applicants or their agents should be present at the DAB meeting to present their case. The DAB also property owners within a specified distance surrounding the perimeter of the application area. The distance required for the publishes an annual calendar of their meetings. Planning staff can provide a copy of the calendar to applicants.

Step 6 - Planning Commission Public Hearing

Every rezoning, conditional use, planned unit development, community unit plan or special district zoning application is reviewed by the MAPC during a public hearing. The MAPC is composed of 14 members appointed by City and County governing body members. The MAPC generally meets the first full week and third week of nearly every month. MAPC meetings generally begin at 1:30 p.m. in the 10th floor conference room located in Wichita's City Hall. Typical reviews begin with a staff report followed by a presentation by the applicant. The applicant has a maximum of 10 minutes to present their case. The time can be extended by a vote of the Commission. Individuals not associated with the applicant are given five minutes each to speak for or against the request. The applicant is then given two minutes of rebuttal time to address points made by individuals not associated with the application. If no one speaks other than the applicant, rebuttal time is not provided. The hearing is the returned to the MAPC discussion. Commissioners discuss the merits of the application and take appropriate action. The Commission can approve, approve with conditions, deny or defer action to a given date. The Commission will provide reasons for any action taken. A simple majority of the members present is sufficient to pass any motion.

For applications involving a zone change, creation of community unit plan or planned unit development, these applications will proceed on to the governing body for final action. The time between MAPC action and governing body action is typically four weeks.

The action of the MAPC is final for conditional use permits and community unit plan amendments unless there is an appeal or protest filed.

Process Improvement Points

Review and become familiar with the City of Wichita-Sedgwick County Comprehensive Plan that outlines the vision for future development within Sedgwick County. Proposals consistent with the guidelines outlined in the Comprehensive Plan are much more likely to be approved.

Be flexible! There are most likely many ways of completing your development plans and it is important to take into account all options. Staff can help you to understand your choices.

Step 7- Protest Petitions

For City zoning applications, protests to proposed zone changes can be filed any time up to 14 days after the MAPC hearing by property owners located within 200 feet of the application area. If protest petitions representing 20% or more of the land area within the 200 foot notice area are received, the case must go on to the governing body and requires a 3/4 majority vote by the governing body to over-ride the protest petitions and approve the case.

For conditional use permits and amendments to community unit plan applications, an appeal can be filed within 14 days after the MAPC hearing by anyone who feels they are directly affected. A single appeal is sufficient to force the case to go to the governing body.

Step 8 - Governing Body Hearing

It is the policy of the City Council to not take additional public testimony on zoning, conditional use, planned unit developments, community unit plans or special district applications. The City Council relies upon the minutes of the MAPC hearing and upon their staff reports and agenda items to provide the Council with required background. Action taken by the Council is final. The Council can approve, approve subject to conditions, defer or send the item back to MAPC for reconsideration with a simple majority, except it takes a 2/3 vote of the Council to override the recommendation of the MAPC at the Council's first consideration of the application. If the case is sent back for reconsideration, the Council can override MAPC recommendations by a simple majority upon consideration a second time.

Step 9 – Publishing Ordinance

When a request is approved, the ordinance making the request legally effective will be published in the official newspaper once all conditions, if any, of approval have been met. Rezoning is not effective and permits will typically not be issued until any and all conditions have been met, and the ordinance authorizing the zone change has been published.

Process Improvement Points

Before public hearings, talk with surrounding property owners to get an idea of how your proposal will be received locally. The governing body, MAPC and the DABs will all take into consideration the opinions of surrounding residents and property owners. Working with property owners before the public hearings to resolve differences can help to ease the approval process.

WICHITA-SEDGWICK COUNTY ZONING

(SUBDIVISION, CONDITIONAL USE, COMMUNITY UNIT PLAN, PLANNED UNIT
DEVELOPMENT, PROTECTIVE OVERLAY AND AMENDMENT PROCESS)

